

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHRISTOPHER M. SANDERS,

Plaintiff,

v.

JEFF PUGH and DR. SEARS,

Defendants.

ORDER

11-cv-202-slc

In an order entered in this case on April 14, 2011, I denied plaintiff's motion for appointment of counsel without prejudice because at that time plaintiff had not shown that he had made a reasonable effort to find a lawyer on his own, as required by *Jackson v. County of McLean*, 953 F.2d 1070 (7th Cir. 1992) and because it was too early in the case to assess plaintiff's ability to litigate his case. Now plaintiff has filed a renewed motion for appointment of counsel, to which he has attached proof that he has contacted three lawyers, all of whom have declined to represent him. Even though plaintiff has now complied with this preliminary requirement, his case has not progressed far enough for the court to determine how complex the issues are or whether plaintiff is competent to prosecute his case. *See Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007). So again, I am denying his motion without prejudice.

In his current motion, plaintiff says that court appointed counsel is now necessary because he fears that the assistant attorney general, who is representing the defendants in this action, may have "unethically taken advantage" of plaintiff by requesting plaintiff to sign an authorization for release of medical information. Although plaintiff indicates that he has signed the medical release, plaintiff says that having an attorney represent him would ensure that the assistant attorney general is behaving ethically.

As a starting point, the Wisconsin Office of the Attorney General represents Department of Corrections employees in about 200 new prisoner lawsuits in this court every year, and in this court's experience, the assistant attorney generals behave ethically. If anything, the assistant attorneys general often are more helpful to prisoners than the rules or the law might require because they know that this court expects them to go the extra mile, and because frankly, it makes the prisoner cases run more smoothly. More specifically in this case, this court cannot and will not force a plaintiff to sign a medical release in a lawsuit, because medical information is confidential and it is up to a plaintiff to decide whether he would rather keep this information private. But when a plaintiff *chooses* to put his medical care at issue in a federal lawsuit, then the defendants are entitled to obtain the plaintiff's relevant medical records in order to defend properly against the plaintiff's allegations. If a plaintiff refuses to consent to the release of his relevant medical records, then this refusal can result in the court dismissing that plaintiff's medical claims. Therefore, there is nothing unethical about the defendants request and plaintiff need not be concerned.

In addition, plaintiff soon will receive a notice that schedules his lawsuit for a preliminary pretrial conference. At that conference, plaintiff will get to ask questions about litigating his case and he will be instructed about how to use discovery techniques available to all litigants under the Federal Rules of Civil Procedure so that he can gather the evidence he needs to prove his case. Following the conference, plaintiff will receive a written order that explains the way things work in this court in a prisoner lawsuit. That order will include a copy of this court's procedures for filing or opposing a summary judgment motion and its procedures for how to get ready for the trial.

Finally, the facts of the case are within plaintiff's personal knowledge, and the law governing plaintiff's claims was explained to him in the order granting him leave to proceed. I am not persuaded that plaintiff's case is so complex or his skills so lacking that appointment of counsel is warranted at this time. The motion will be denied without prejudice to plaintiff bringing it at a later stage in his lawsuit.

ORDER

IT IS ORDERED that plaintiff's second motion for appointment of counsel, dkt. 9, is DENIED without prejudice.

Entered this 21st day of June, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge